

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

NO.

2012 ~~SEP 3~~ ^{SEP 4} A 8:41

BY RONALD R. CARPENTER

SUPREME COURT OF THE STATE OF WASHINGTON
CLERK

MARIE C. CLARKE,

Petitioner,

v.

KIM WYMAN, Thurston County Auditor;
CHRISTINE SCHALLER- KRADJAN, Candidate for Thurston County
Superior Court, Position 2,

Respondents.

STATEMENT OF GROUNDS FOR DIRECT REVIEW BY THE
SUPREME COURT

MARIE C. CLARKE
Attorney at Law and Petitioner
WSBA No. 36146
10031 Mariner Dr. NW
Olympia, WA 98502
(360) 915-3338
mcclarke24@comcast.net

I. NATURE OF THE CASE AND DECISION

The facts in this matter are simple and undisputed. Christine Schaller-Kradjan is a resident and registered voter of Pierce County. Despite this, Thurston County Auditor Kim Wyman permitted Ms. Schaller-Kradjan's name to appear on the 2012 primary ballot for Thurston County Superior Court, Position Two. On August 21, 2012, Ms. Wyman certified the primary election results. Ms. Schaller-Kradjan received 23,681 votes, Jim Johnson received 10,748 votes, Marie Clarke received 8,532 votes, and Victor Minjares received 5,801 votes.

On August 22, 2012, Ms. Clarke initiated this action in Thurston County Superior Court, seeking to have Ms. Schaller-Kradjan declared ineligible because she is not a Thurston County resident and to have Ms. Wyman place the names of only Mr. Johnson and Ms. Clarke—the top two eligible candidates—on the general election ballot. On August 31, 2012, the trial court held that residency requirements are unconstitutional as applied to the judiciary. Thus, the trial court held that there is no county residency, Washington residency, or United States citizenship requirement to be a Superior Court judge or Supreme Court Justice in Washington.

II. ISSUES PRESENTED FOR REVIEW

1. Whether Washington's requirement that judges be residents of the communities they serve, which has been required since 1854, is unconstitutional beyond a reasonable doubt.
2. Whether, when one of the top two candidates for a Superior Court position is declared ineligible after a top two primary election but before a general election, the proper remedy is to place the top two *eligible* candidates on the general election ballot.

III. GROUNDS FOR DIRECT REVIEW

The legal issues presented in this appeal are detailed in Ms. Clarke's Emergency Motion For Expedited, Direct Review. Direct review is appropriate in this case because the trial court held that RCW 42.04.020 is unconstitutional as applied to Superior Court judges and Supreme Court Justices. RAP 4.2(a)(2). Further, if this Court does not act directly and swiftly, there is a significant likelihood that Thurston County's voters will be deprived of their constitutionally guaranteed right to vote for their Superior Court judges because the Thurston County Auditor's Office has represented that general election ballots must be finalized for printing by September 10, 2012, due to Federal law. This presents a fundamental and urgent issue of broad public import. RAP 4.2(a)(4).

RESPECTFULLY SUBMITTED this 4th day of September, 2012.

A handwritten signature in cursive script, appearing to read "M. C. Clarke".

MARIE C. CLARKE
Attorney at Law and Petitioner
WSBA No. 36146
10031 Mariner Dr. NW
Olympia, WA 98502
(360) 915-3338
mcclarke24@comcast.net

PROOF OF SERVICE

I certify that I served a copy of on all parties or their counsel of record on the date below as follows:

☐ US Mail Postage Prepaid

☐ ABC/Legal Messenger

☒ Hand delivered by Linda I. Foster

Philip A. Talmadge
Shawn Timothy Newman
c/o 2507 Crestline Dr. N.W.
Olympia, WA 98502
Attorneys for Respondent Christine Schaller-Kradjan

David Klumpp
Thurston County Prosecuting Attorney's Office
Civil Division – Glenn Building
2000 Lakeridge Dr. S.W.
Olympia, WA 98502
Attorney for Respondent Kim Wyman

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 4th day of September, 2012, at Olympia, WA.



Linda I. Foster